

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
WESTERN DIVISION**

MERRIDETH CRANE-HORTON,)
)
Petitioner,)
)
v.) Case No.: 7:18-cv-01332-ACA-JHE
)
WARDEN BRADLEY,)
)
Respondents.)

MEMORANDUM OPINION

On March 8, 2019, the magistrate judge entered a report and recommendation (doc. 7), recommending that the court dismiss Petitioner Merrideth Crane-Horton's 28 U.S.C. § 2241 petition for writ of habeas corpus with prejudice for lack of subject matter jurisdiction. Although the magistrate notified Ms. Crane-Horton of her right to file objections, she has not objected to that recommendation. The court has considered the entire file in this action, together with the report and recommendation, and has reached an independent conclusion that the report and recommendation is due to be adopted and approved in part and modified in part.

The court **ADOPTS AND ACCEPTS** all of the magistrate judge's report and recommendation except the recommendation to enter a dismissal with prejudice. "A dismissal for lack of subject matter jurisdiction is not a judgment on

the merits and is entered without prejudice.” *Stalley ex rel. U.S. v. Orlando Reg'l Healthcare Sys., Inc.*, 524 F.3d 1229, 1232 (11th Cir. 2008). Accordingly, the court **WILL DISMISS** the § 2241 petition **WITHOUT PREJUDICE**. The court will enter a separate order consistent with this opinion.

DONE and **ORDERED** this April 1, 2019.



ANNEMARIE CARNEY AXON
UNITED STATES DISTRICT JUDGE